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REMARKS

Claims 1 to 5, 7 to 22 and 24 to 26 are pending in this application. Claims 1, 12 and 22 are the independent claims. Favorable reconsideration and further examination are respectfully requested.

Claims 1 to 5, 7 to 22 and 24 to 26 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement because the Examiner alleges that packets could eventually be dropped. The Examiner has indicated that best effort service does not automatically drop packets (see page 2 of the Office Action). Based on the foregoing claim amendments, Applicants respectfully request withdrawal of the §112

Claims 1, 4, 5, 7, 8, 12, 15, 16 and 18 are rejected under 35 U.S.C. §103(a) as being obvious over Le Gouriellec et al. (U.S. Patent Application No. 2003/0112756, hereinafter "Le Gouriellec") and Agrawal et al. (U.S. Patent Application No. 2003/0081546, hereinafter "Agrawal"). Claims 9, 10, 19 and 20 are rejected under 35 U.S.C. § 103(a) as being obvious over Le Gouriellec and Agrawal and further in view of Duncan et al. (U.S. Patent No. 7,237,012, hereinafter "Duncan"). Claims 2, 3, 13, 14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being obvious over Le Gouriellec and Agrawal and further in view of Li et al. (U.S. Patent Application No. 2007/0086337, hereinafter referred to as "Li"). Claims 11 and 21 are rejected under 35 U.S.C. §103(a) as being obvious over and Agrawal and further in view of Chen et al. (U.S. Patent No.

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6,226,685, hereinafter referred to as "Chen"). Claims 22 to 24 are rejected under 35

U.S.C. §103(a) as being obvious over Le Gouriellec, Chen and Agrawal

Claim 1 is directed to a method for providing committed access rate (CAR). The method

includes classifying each received packet in an IP(Internet Protocol)/Ethernet network into one

of a plurality of quality of service (QoS) groups using information in a header of the packet,

measuring and checking a traffic rate profile of the received packet against a corresponding

service level agreement (SLA) and marking the packet as one of an in profile packet or an out of

profile packet. A CAR packet is an in profile packet if the CAR packet is within the

corresponding SLA so that the CAR packet receives congestion-free service. A CAR packet is

marked as an out of profile packet if the CAR packet exceeds the SLA and is transmitted with

best effort service without automatically dropping the out of profile packet. The method also

includes performing packet buffer memory reservation to guarantee memory space for in profile

CAR packets and dynamically allocating non-CAR packets to packet buffer memory during non

congestion and if space in the packet buffer memory is available.

The applied art is not understood to disclose or to suggest the foregoing features of

claim 1. In particular, none of the cited art whether taken separately or in combination discloses

or suggests dynamically allocating non-CAR packets to packet buffer memory during non

congestion and if space in the packet buffer memory is available.

The Examiner has indicated that neither Le Gouriellec nor Agrawal teach that packet

buffer memory for non-CAR packets is dynamically allocated (see page 8 of the Office Action).

To make-up for the deficiencies Le Gouriellec and Agrawal, the Examiner cites Duncan and

indicates that Duncan teaches that packet buffer memory for non-CAR packets is dynamically

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allocated by indicating that Duncan shows "dynamic portion for storing SLA data" (see page 9 of the Office Action). Applicants respectfully disagree. Duncan does not teach non-CAR packets as the Examiner alleges nor can SLA data be equated to non-CAR packets. Rather SLA data in Duncan refers to QoS settings and has nothing to do with packets (see column 7, lines 8 to 10 of Duncan). Therefore, Duncan does not disclose or suggest dynamically allocating non-CAR packets to packet buffer memory during non congestion and if space in the packet buffer memory is available.

Accordingly, for at least the reasons indicated above, even if Duncan were combined with Le Gouriellec and Agrawal, the resulting hypothetical combination would not disclose or suggest dynamically allocating non-CAR packets to packet buffer memory during non congestion and if space in the packet buffer memory is available.

Claim 12 has corresponding features to claim 1. Applicants submit that the cited references should also be withdrawn with respect to claim 12 for at least the same reasons as claim 1.

With respect to independent claim 22, the cited art does not disclose or suggest that for each in profile packet, pushing out a queued non-CAR packet during congestion using a push-out head-drop mechanism to drop the oldest non-CAR packets if at least one of corresponding packet buffer memory or transmit queue is full. The Examiner seems to indicate that Le Gouriellec teaches a push out mechanism at paragraph [0028] though the Examiner never explicitly states that it is Le Gouriellec since the other references do not seem to include relevant support (see page 9 of the Office Action). Applicants note that the Examiner contradicted himself my stating that Le Gouriellec and Agrawal do not teach a push out mechanism (see page 8 of the Office

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Action). Regardless of what the Examiner intended, none of the cited references do not teach a push-out head-drop mechanism much less a push-out head-drop mechanism to drop the oldest non-CAR packets if at least one of corresponding packet buffer memory or transmit queue is full

Applicants submit that the cited references should also be withdrawn with respect to dependent claims 10 and 20 for at least the same reasons as claim 22.

For at least the foregoing reasons, Applicants request withdrawal of the art rejection.

Applicants submit that all dependent claims now depend on allowable independent claims.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for withdrawing the prior art cited with regards to any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

It is submitted that this amendment places the application in condition for allowance or in better form for consideration on appeal, and thus, entry of this amendment is respectfully requested under the provisions of 37 C.F.R. §1.116.

Applicants' attorney can be reached by telephone at (781) 401-9988 ext. 123.

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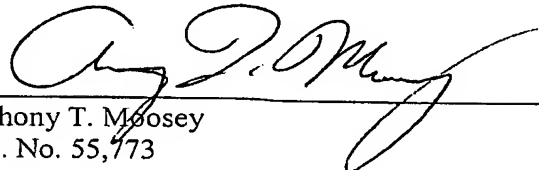Filed : September 30, 2003
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No fee is believed to be due for this Response; however, if any fees are due, please apply such fees to Deposit Account No. 50-0845 referencing Attorney Docket: INTEL-047PUS.

Respectfully submitted,

Date: _3 December 2008_

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